IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS. JUSTICE G.ROHINI

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WRIT PETITION NOs.7006, 6949, 6950, 6951, 7077, 7125, 7132, & 7388 OF 2005

WRIT PETITION NO : 7006 of 2005

Between:

1 Greater Visakha Medicare Educational Society, Registerd at Visakhapatnam, rep. by its Correspondent, Syed Hamza Hussaini, S/o. S.A. Hussaini, Nellore.
2 Mother Theresa Educational Society, Raigir Village, Bhongir Mandal, Nalgonda District, rep. by its Correspondent, V.Jayachandra Reddy, S/o. Yerram Reddy, R/o. bhongir, Nalgonda District.
3 Badvel Higher & Technical Educational Society Nagarjupet, Cuddapah rep. by its Correspondent, T. Shiva Shankar Reddy, S/o. T. Ramachandra Reddy, aged 32 years.
4 St. Thomas Educational Soceity, Tiruvur Village and Mandal, Krishna District, rep. by its Secretary & Correspondent, C.D. Prabhakar Rao, S/o. Isaiah, 52 Years.
5 Nalanda Educatinal Society, Surypaet, Nalgodna District, rep. by its Secretary, A. Nagarjuna, S/o. Balakistaiah,
6 Madina Educational Society, Kodad, nalgonda District, rep. by its Secretary, Syed Jaffar,S/o. Syed Jamal,
7 Deen Dayal Educational Academy Siddharthnagar, Vikarabad, R.R.District, rep. by its President, K.Jaidev, S/o. K. Buddha Dev, R/o. Vikarabad, R.R.District.
8 K.B.K. Educational Society, Gemini colony, Ramangar, Hyderabd rep. by its Secretary, K. Yadaiah, S/o. Venkataiah, R/o. Ramnagar, Hyderabad.
9 Sri Venkateswara Educational Society, Bagh Lingampally, Hyderabad, rep. by its Secretary, K. Sekhar Reddy, S/o. K. Sathi Reddy.
10 Sri Saraswathi Vidya Nilam Educational Society, rep. by its Secretary, P. Madhusudhan Reddy, S/o. P. Narasimha Reddy, Hyderabad.
R/o. Hyderabad.
11 Katipally Ravinder Reddy Education Society, Nizamabad, rep. by its President, K.M. Mahender Reddy, S/o. K. Mohan Reddy, R/o. Hyderabad.

..... PETITIONERS

AND

1. Govt of A.P., rep. by its Principal Secretary to Govt., School Education

(Training-A1) Department, Secretariat, Hyderabad.
2 The Convenor, EDCET 2004-2005, O/o. Director of School Education, A.P. Hyderabad.
3 The Commissioner & Director of School Education, A.P. Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ of Mandamus or any other appropriate writ or writs, order or direction, declaring the G.O.Rt.No.216, School Education (Training-A1) Department dt. 24.3.2005 issued by first respondent as illegal, arbitrary, unconstitutional and without jurisdiction; Award costs and pass such other or further orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioners : MR. N.SRIDHAR REDDY

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

In WRIT PETITION NO : 6949 of 2005

Between:

St.Mary Educational Society, LIG-2, A.P.H.B.Colony, Nalgonda, rep.by its Secretary, Y.Renuka.

..... PETITIONER

AND

1 The Government of Andhra Pradesh rep.by its Prl.Secretary, School Education Department Secretariat Buildings, Hyderabad.
2 The A.P.State Council for Higher Education, Andhra pradresh, Hyderabad.
3 The Commissioner & Director of School Education, Andhra pradesh, Hyderabad.
4 The Convenor, Ed.CET 2004, Hyderabad.
5 The Osmania University, Hyderabad, rep.by its Registrar.
6 The National Council for Teacher Education, 1st floor, CSD Building, HMT post, Bangalore

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the impugned G.O.Ms.No.216 dated 24-03-2005 issue by the 1st respondent refusing the inclusion of the colleges established by the petitioner in the approved list of colleges of Education for the academic year 2004-2005 for allotment of

students as unconstitutional and hence, void and nonest in the eye of law, arbitrary and illegal, offending Article 14 of the Constitution of India by way of issue of a writ, order or direction, more particularly one in the nature of writ of Mandamus and consequently direct the Respondents to treat the colleges established by the petitioner at par with the colleges included in G.O.Ms.No.48 dated 03-03-2005 and pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner : MR. D.V.SITARAMAMURTHY

Counsel for the Respondent Nos.1 to 4 : GP FOR School EDUCATION

Counsel for the respondent No.5 : Mr. Deepak Bhattacharjee

Counsel for the respondent No.6 : --

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In WRIT PETITION NO : 6950 of 2005

Between:

1 Manair Educational Academy Rep. by its Secretary K.Anatha Reddy, Padma Nagar, Karimnagar- 505 002,
2 Raja Bahadur Venkatarama Reddy Vignana Parishad Karimnagar rep by its Correspondent Pingali Bhaskar Reddy,

..... PETITIONERS

AND

1 The Govt of A.P., Rep by its Prl.Secretary
School Education Dept. Secretariat Buildings, Hyderabad.
2 The A.P.State Council for Higher Education
A.P., Hyderabad.
3 The Commissioner and Director of School Education
A.P., Hyderabad.
4 The Convenor, Ed.CET 2004, Hyderabad.
5 The Kakatiya University Rep by its Registrar
Warangal.
6 The National Council for Teacher Education
1st Floor, CSD Building, HMT Post Bangalore-560 031.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to .Pleased to declare the impugned G.O.Ms.No.216 dt. 24-03-2005 issued by the 1st Respondent refusing the inclusion of the colleges established by the petitioners in the approved list of Colleges of Education for the academic year 2004-2005 for allotment of students as unconstitutional and hence, void and nonest in the eye of law, arbitrary and illegal offending Articles 14 of the Constitution of India by way of issue of a writ, order or direction, more particularly one in the nature of Writ of Mandamus and consequently direct the respondents to treat the colleges established by the petitioners at par with the colleges included in G.O.Ms.No.48 dt.03-03-2005 and pass such other order or orders.

Counsel for the Petitioners : MR. D.V.SITARAMAMURTHY

Counsel for the Respondent Nos.1 to 4: GP FOR School EDUCATION

Counsel for the respondent No.5 : Mr. Deepak Bhattacharjee

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In WRIT PETITION NO : 6951 of 2005

Between:

1 Karunya Educational Society, Plot No.39, Doctors Colony, Seethammadhara Visakhapatnam-13, rep., by its Secretary and Correspondent V.Raj Kumar.
2 Elite Educational Society, Draksharama, East Godavari District rep., by its President and Correspondent Smt.G.Annapurna.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh rep., by its Principal Secretary, School Education Department, Secretariat Buildings, Hyderabad.
2 The A.P. State Council for Higher Education, Andhra Pradesh, Hyderabad.
3 The Commissioner and Director of School Education, Andhra Pradesh,

Hyderabad.
4 The Convenor, Ed.CET 2004, Hyderabad.
5 The Andhra University, Visakhapatnam rep., by its Registrar.
6 The National Council for Teacher Education, 1st Floor, CSD Building, HMT Post,Bangalore-560 031.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the impugned G.O.Ms.No.216 dated 24-03-2005 issued by the 1st respondent refusing the inclusion of the colleges established by the petitioners in the approved list of Colleges of Education for the academic year 2004-2005 for allotment of students as unconstitutional and hence, void and nonest in the eye of law, arbitrary and illegal, offending Article 14 of the Constitution of India by way of issue of al writ, order or direction, more particularly one in the nature of writ of mandamus and consequently direct the respondents to treat the colleges established by the petitioners at par with the colleges included in G.O.Ms.No.48 dated 03-03-2005 and pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case.

Counsel for the Petitioners : MR. D.V.SITARAMAMURTHY

Counsel for the Respondent Nos.1 to 4 : GP FOR School EDUCATION

Counsel for the respondent No.5 : Mr. V.Rajagopal Reddy

Counsel for the respondent No.6 : ---

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In WRIT PETITION NO : 7077 of 2005

Between:

Scient Educational Society, Hyderabad, rep. by its Secretary, K.C. Shekhar reddy, r/o. Hyderabad.

..... PETITIONER

AND

1 Government of A.P., rep. by its Principal Secretary to Govt., School Education ((Training-A1) Department, at Secretariat, Hyderabad.
2 The Convenor, EDCET 2004-2005, O/o. Director of School Education, A.P., Hyderabad.
3 The Commissioner & Director of School Education, A.P., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a Writ of Mandamus or any other appropriate writ or writs, order or direction, declaring the G.O.Rt.No.216, School Education (Training-A1) Department Dt. 24.3.2005 issued by first respondent as illegal, arbitrary, unconstitutional and without jurisdiction; Award costs and pass such other or further orders.

Counsel for the Petitioner : MR. N.SRIDHAR REDDY

Counsel for the Respondents : GP FOR SCHOOL EDUCATION

In WRIT PETITION NO : 7125 of 2005

Between:

St.Peter's Educational Society, Giddalur, Prakasam District rep.by its Correspondent Sri Kota Jayapaul.

..... PETITIONER

AND

1 The Government of Andhra Pradesh rep.by its Prl. Secretary School Education Department Secretariat Buildings, Hyderabad.
2 The A.P.State Council for Higher Education Andhra Pradesh, Hyderabad.
3 The Commissioner & Director of School Education, Andhra Pradesh,

Hyderabad.
4 The Convenor, Ed.CET 2004, Hyderabad.
5 Sri Krishnadevaraya University, Anantapur rep.by its Registrar.
6 The National Council for Teacher Education, 1st floor, CSD Building, HMT post, Bangalore-560031.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the impugned G.O.Ms.No.216 dated 24-03-2005 issued by the 1st Respondent refusing the inclusion of St.peter's College of Education, Pattikonda, Kurnool District established by the petitioner in the approved list of Colleges of Education for the academic year 2004-2005 for allotment of students as unconstitutional and hence, void and nonest in the eye of law, arbitrary and illegal, offending Article 14 of the Constitution of India by way of issue of a writ, order or direction, more particularly one in the nature of writ of Mandamus and consequently direct the respondents to treat St.Peter's College of Education, Pattikonda, Kurnool District established by the petitioner at par with the colleges included in G.O.Ms.No.48 dated 03-03-2005 and pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner : MR. D.V.SITARAMAMURTHY

Counsel for the Respondent Nos.1 to 4 : GP FOR EDUCATION

In WRIT PETITION NO : 7132 of 2005

Between:

V.C.Venkata Reddy Educational Society, Markapur, Prakasam District rep., by its Secretary and Principal B.Guruva Reddy.

..... PETITIONER

AND

1 The Government of Andhra Pradesh rep., by its Principal Secretary, School Education Department, Secretariat Buildings, Hyderabad.
2 The A.P. State Council for Higher Education, Andhra Pradesh, Hyderabad.
3 The Commissioner and Director of School Education, Andhra Pradesh, Hyderabad.
4 The Convenor, Ed.CET 2004, Hyderabad.
5 The Nagarjuna University, Guntur rep., by its Registrar
6 The National Council for Teacher Education 1st Floor, CSD Building, HMT Post, Bangalore-560 031.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the impugned G.O.Ms.No.216 dated 24-03-2005 issued by the 1st respondent refusing the inclusion of Ravi Teja College of Education, Markapur, Prakasam District established by the petitioner in the approved list of Colleges of Education for the academic year 2004-2005 for allotment of students as

unconstitutional and hence, void and nonest in the eye of law, arbitrary and illegal, offending Article 14 of the Constitution of India by way of issue of a writ, order or direction, more particularly one in the nature of writ of mandamus and consequently direct the respondents to treat RaviTeja College of Education, Markapur, Prakasam District established by the petitioner at par with the colleges included in G.O.Ms.No.48 dated 03-03-2005 and pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case.

Counsel for the Petitioners : MR. D.V.SITARAMAMURTHY

Counsel for the Respondent Nos.1 to 4 : GP FOR EDUCATION

Counsel for the 5th respondent : Mr. T.S.Haranath

IN WRIT PETITION NO : 7388 of 2005

Between:

1 Al-Ameen Educational Societhy, 7, Tombs Road, Nadeem Colony, Toli Chowki, Hyderabad, rep. by its Secretary Shahnaz Siddiqui.
2 Shahnaz College of Education, D.No. 3-44, Narsapur Village & Mandal,Medak District, rep. by its Correspondent Shahnaz Siddiqui.
3 Shahnaz Siddiqui, W/o Mohd. Khadeeruddin Siddiqui,
R/o Toli Chowki, Hyderabad-8.

..... PETITIONERS

AND

1 Government of Andhra Pradesh, rep. by its Principle Secretary,
School Education, Secretariat, Saifabad, Hyderabad.
2 Commissioner and Director of School Education, Government of Andhra Pradesh, Hyderabad.
3 Government of Andhra Pradesh, rep. by its Principal Secretary,
Minority Welfare Department, Secretariat, Saifabad, Hyderabad.
4 The Convenor, Edcet-2004 Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order, direction more particularly one in the nature of writ of "Mandamus" declaring the action of the 1st respondent in issuing G.O.Rt.No. 216 dated 24-3-2005 in refusing to include the 2nd petitioner institution in the list of approved Colleges of Education for the academic year 2004-05 as being illegal, arbitrary and unconstitutional and consequently direct the respondents to treat the 2nd petitioner institution as an approved College of Education for the academic year 2004-05 and for all years thereafter for all purposes and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR. S.NIRANJAN REDDY

Counsel for the Respondents : GP FOR HIGHER EDUCATION

The Court at the stage of admission made the following Common Order :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NOs.7006, 6949, 6950, 6951, 7077, 7125, 7132, & 7388 OF 2005

COMMON ORDER:

All these writ petitions are filed seeking a declaration that G.O.Rt.No.216, School Education (Training–A1) Department, dated 24-3-2005 issued by the Government of A.P. as arbitrary, illegal and offending Article 14 of the Constitution of India.

Since common questions of fact and law arise for consideration, all the matters are heard together and decided by this Common Order.

The writ petitioners are the Educational Societies which intended to establish Colleges of Education at different places in the State. It is not in dispute that in pursuance of the Notifications issued in terms of the guidelines under G.O.Ms.No.398, Education, dated 4-12-1997, the petitioner Societies have applied seeking permission to start Colleges of Education and having considered the same, the Government of A.P. granted No Objection Certificates to all the petitioners. It is also not in dispute that the N.O.C. granted in favour of all the institutions are valid for the academic year 2004-05. The petitioners state that on the basis of the N.O.C. granted by the Government of A.P, they have applied to the Southern Regional Committee of National Council for Teacher Education (N.C.T.E.) for grant of recognition and the same has been granted for the academic session 2004-05 with an annual intake specified in the respective orders. Pursuant to the recognition granted by N.C.T.E., the petitioners made applications to the concerned Universities

for grant of affiliation and the same are under process. While so, since the admission of students in various Colleges of Education in the State for the Academic year 2004-05 was being processed, the petitioners made applications to the Government of A.P. as well as the Commissioner and Director of School Education, A.P. seeking a direction to the Convenor, EDCET 2004-05 for allotment of students to the Colleges established by the Petitioner Societies. However, their request has not been considered and the 1st respondent issued G.O.Ms.No.48, dated 3-3-2005 approving the list of Colleges of Education in the State for the academic year 2004-05 and requesting the Chairman, A.P. State Council of Higher Education to instruct the Convenor, EDCET-2004 to allot the candidates as per the Rules issued in G.O.Ms.No.26 and G.O.Ms.No.27, dated 3-3-2005. The colleges established by the petitioner societies were not included in the list of 303 colleges specified in the Annexure to G.O.Ms.No.48, dated 3-3-2005. Aggrieved by the said action, all the petitioners herein filed Writ Petitions. While directing Rule Nisi in the said writ petitions, this Court granted interim directions to allot the students to the Colleges established by the petitioners without reference to G.O.Ms.No.48, dated 3-3-2005. The operative portion of the said order runs as under :

> *"In the circumstances, there shall be a direction to the respondents to allot the students to the petitioner colleges in accordance with law notwithstanding the fact that they are not included in the list of colleges under G.O.Ms.No.48, dated 3-3-2005."*

The petitioners allege that in spite of the said orders, the students were not allotted to the petitioner colleges for admission, but on the other hand the impugned G.O.Ms.No.216, dated 24-03-2005 has been issued rejecting the request of the petitioners for inclusion of their colleges in the list of approved Colleges of Education for allotment of candidates. The relevant portion of the said order may be extracted hereunder :

> *"In the instant case, none of institutions listed in Annexure-II have produced the affiliation letters issued by the concerned Universities, so as to verify whether or not they have duly fulfilled the conditions as per Law nor submitted the official Gazette to the Government for appropriate action as stipulated in sub-section (4) of Section 14 of the above said Act. In the absence thereof, the Government is not in a position to consider their requests favourably. Further, the Government had already taken a categorical decision to the effect that the existing*

colleges in the State are sufficient to cater to the needs of the students and also for meeting the teacher requirements of the schools in the State. Moreover the intake capacity of existing colleges is more than the demand from the student community.

Government after careful consideration of the matter and in pursuance of the interim directions of the A.P. High Court, hereby reject the request of the Presidents/Secretaries and Correspondents of the above educational societies to include their colleges in the Approved List of Colleges of Education for the academic year 2004-05 for allotment of students as their requests are not in accordance with Law."

The said order is under challenge in all these writ petitions contending that all the grounds mentioned in the said G.O. for not allotting the students to the colleges established by the petitioner Societies are untenable. It is also specifically alleged that out of 303 colleges listed in G.O.Ms.No.48, dated 3-3-2005, the publication of recognition in the Official Gazette was not communicated in writing for any one of the colleges. It is also alleged that more than 100 colleges do not have affiliation from the respective Universities. It is alleged that the action of the respondents is vindictive and the impugned order was passed only to defeat the interim orders of this Court in the earlier writ petitions. It is also pleaded that there are about 1,90,000 students who are qualified for admission into B.Ed. course for the academic year 2004-05, whereas the total number of candidates that may be allotted to 303 colleges which are listed in G.O.Ms.No.48, dated 3-3-2005, would be around 30,000 only. Hence, the contention of the Government that the capacity of the exiting colleges is more than the demand is incorrect.

On behalf of the respondents, a common counter-affidavit has been filed. The Deputy Director (Training) in the office of the Director of School Education, A.P., who has deposed to the said counter-affidavit on behalf of all the respondents, denied all the allegations made by the petitioners and stated that the Convenor, EDCET 2004-05 has not allotted candidates to any colleges, which do not have any valid affiliation letters. It is further stated that after examining the cases of the petitioners, it was found that none of the petitioners had any document to show that they had affiliation from the concerned Universities. In the absence of the affiliation, the

Government cannot allot any students to those colleges and therefore their cases were rejected and the rejection orders in G.O.Rt.No.216, dated 24-03-2005 and G.O.Rt.No.245, dated 1-4-2005 were duly communicated to the petitioners.

Subsequently, in compliance with the orders of this Court dated 5-4-2005, an additional Counter-affidavit has been filed on 7-4-2005 on behalf of the respondents explaining the specific allegations made by the writ petitioners that more than 100 colleges and particularly the six colleges whose names were specified in the affidavits filed in support of the writ petitions do not have affiliations from their respective Universities.

In the additional counter-affidavit, it is stated that G.O.Ms.No.48, dated 3-3-2005 was sent to the State Council for Higher Education, who in turn by letter dated 5-3-2005 addressed all the Registrars of various Universities in A.P. requesting them to cause affiliation inspections in order to issue renewal of application to B.Ed. colleges and send the list on or before 18-03-2005 i.e., before the commencement of the counselling on 21-3-2005. In response to the said letter, the Registrars of various Universities have communicated the list of colleges having affiliations for the year 2004-05. Thereafter, the list of affiliated colleges furnished by the respective Universities as well as colleges notified in G.O.Ms.No.48, dated 3-3-2005 were sent to the Convenor, EDCET, who, in turn will allot students on being satisfied that the colleges are having affiliations from the concerned Universities and recognition from the N.C.T.E. It is further stated that out of 303 colleges enumerated in G.O.Ms.No.48, dated 3-3-2005, only three colleges viz., (1) St. Marks College of Education, Tekkali (2) Nagarjuna College of Education, Tenali Revenue Division, Guntur District and (3) Hannamma Christian College of Education, Proddatur did not have affiliation for the year 2004-05 and they were accordingly not allotted any students. So far as the six colleges specified in the affidavits of the petitioners, it is stated that the allegation of the petitioners that they do not have affiliation is incorrect and without any basis and as per the letter of Sri Venkateswara University, Tirupathi dated 15-03-2005 they are all existing colleges and were being granted extension of affiliation by the University.

However, so far as the allegation of the petitioners that out of the 303 colleges

listed in G.O.Ms.No.48, dated 3-3-2005 none of the colleges has submitted the publication of recognition in the Official Gazette, it is stated that the colleges included in the list annexed to G.O.Ms.No.48, dated 3-3-2005 are the colleges which have been notified by N.C.T.E. in its letters dated 25-1-2005 and 16-2-2005 and the Gazette Notifications of the Colleges which have been granted recognition by the N.C.T.E. would be in the custody of N.C.T.E. which has not been made party to the writ petitions.

I have heard the learned Counsel for the petitioners, learned Government Pleader appearing for the respondents as well as the learned Standing Counsel appearing for the respective Universities and perused the material on record.

Sri D.Prakash Reddy, the learned Senior Counsel leading the arguments on behalf of the petitioners vehemently contended that all the grounds on which the respondents have refused to include the Colleges of the petitioner Societies in the list of the Approved Colleges are non-existent and the impugned order has been passed only to defeat the positive directions of this Court in the interim orders granted in the earlier batch of writ petitions. The learned Senior Counsel submitted that as per sub-Section (6) of Section 14 of the N.C.T.E. Act, the affiliation follows the recognition granted by the N.C.T.E. as a matter of course and therefore there is absolutely no justification in rejecting the request of the petitioners on the ground of absence of affiliation. The learned Counsel further contended that having issued No Objection Certificate in pursuance of the Notifications issued in terms of G.O.Ms.No.398, dated 4-12-1997 which are admittedly valid for the academic year 2004-05, it is not open to the respondents to take a stand that the existing colleges in the State are sufficient to cater to the needs of the students and for meeting the teacher requirements of the schools in the State. He also points out that since the respondents themselves admitted in their additional counter-affidavit that the publication of recognition in the Official Gazette in respect of any of the colleges included in the list of Approved Colleges has not been received, the objection that the petitioners failed to produce Official Gazettes is untenable and cannot be accepted. At any rate, according to the learned Counsel, under sub-Section (3) of Section 14 of the Act, what is required is only the grant of recognition by the N.C.T.E. and publication in the Official Gazette is not mandatory to act upon such recognition.

Sri A. Satya Prasad, the learned Special Government Pleader, representing the learned Advocate General, appearing for the State has submitted that this Court while granting interim orders in the earlier batch of writ petitions, directed that the students shall be allotted to the petitioner Colleges in accordance with law and therefore it is always open to the respondents to refuse allotment of the students to the petitioner Colleges on the ground that they do not have affiliation from the concerned Universities. The learned Government Pleader contended that since admittedly as on today the petitioner colleges do not have affiliations, the impugned order has been rightly passed and the same does not warrant any interference. He submits that except three colleges all other colleges included in the list annexed to G.O.Ms.No.48, dated 3-3-2005, have valid affiliations as confirmed by the concerned Universities, and states that the Convenor, EDCET will not allot the candidates to any college which does not have valid affiliation.

It is to be noted that the request of the petitioners for including their institutions in the list of Approved Colleges under G.O.Ms.No.48, dated 3-3-2005 was rejected under the impugned order on three grounds which may be summed up as under :

> *(1) The petitioners have not submitted the Official Gazette publishing the recognition granted by the N.C.T.E. as stipulated under Section 14(4) of N.C.T.E. Act, 1993*
>
> *(2) As per the N.C.T.E. Act, the institution, apart from the recognition of the Regional Committee of N.C.T.E., Bangalore, should have the affiliation of the concerned University, but the petitioners have not produced the affiliation letters issued by the concerned Universities.*
>
> *(3) The Government has taken a decision to the effect that the existing colleges in the State are sufficient to cater to the needs of the students and also for meeting the Teacher Recruitment of the Schools in the State. Moreover, the intake capacity of existing colleges is more than the demand from the student community.*

In the light of the rival contentions raised by both the parties, the point that arises for consideration is whether the above three reasons stated in the impugned order are sustainable under law.

Under the provisions of the National Council for Teacher Education Act, 1993 (for short, 'the N.C.T.E. Act'), the National Council for Teacher Education (N.C.T.E.) is the Competent Authority to grant recognition to any institution offering or intending to offer a course of training in teacher education. Section 14 of the N.C.T.E. Act specifically provides for the recognition of the institutions offering course of training in Teacher Education. A reading of Section 14 of the NCTE Act makes it clear that no institution offering or intending to offer a course or training in Teacher Education shall be permitted to run any institution without recognition from N.C.T.E. Under sub-Section (6) of Section 14 of the NCTE Act, the Examining Body i.e., the University shall, on receipt of the order of Recognition, by N.C.T.E., grant affiliation to the institution and it has to cancel the affiliation where recognition has been refused. As per the Regulations framed by the N.C.T.E. in exercise of the power under Section 32 of N.C.T.E. Act which are known as the National Council for Teacher Education (application for recognition, the manner for submission, determination of conditions for regulation of institutions and permission to start new course or training) Regulations, 1995, any application for establishment of a College of Education to be made to the N.C.T.E. has to be accompanied by a No Objection Certificate issued by the concerned State Government.

Consequent upon the enactment of the N.C.T.E. Act by the Parliament, the State Government, after taking into consideration the relevant factors, issued G.O.Ms.No.398, Education, dated 4-12-1997 incorporating the guidelines relating to grant of No Objection Certificate. As per the said guidelines, the State Level Standing Committee constituted by the Government has to assess the educational needs of the locality. Once the need is assessed, the applications will be invited for starting new institutions by publication of the notifications. The applications received will be scrutinised and if the Committee is satisfied about fulfillment of the prescribed requirements, the deserving applicants will be issued No Objection Certificates.

A Division Bench of this Court in GOVERNMENT OF A.P. v. ST. MARY'S EDUCATIONAL SOCIETY, GIDDALURU, PRAKASAM DISTRICT having

considered the purport and scope of Section 20 of A.P. Education Act, 1982 *vis-a-vis* Section 14 of NCTE Act as well as G.O.Ms.No.398, dated 4-12-1997 held that the State Government is entitled to make an assessment that the need for establishment of institution offering or intending to offer a course or training in teacher education. However, it was made clear that the assessment of relative merits of the applicants for grant of recognition falls within the exclusive domain of the N.C.T.E. and that the N.C.T.E. alone is entitled to scrutinize as to whether an institution which intends to offer a course or training in Teacher Education has adequate financial resources and fulfills other conditions specified under the Regulations framed under N.C.T.E. Act.

Thus, when in pursuance of the notification issued under G.O.Ms.No.398, dated 4-12-1997, a No Objection Certificate is issued by the State Government to any applicant for establishment of a College of Education and the recognition has also been granted by the N.C.T.E. upon compliance of all the Norms of the N.C.T.E., the same would be conclusive of the need for establishment of such college in that area.

In the case on hand, it is not in dispute that in pursuance of the notifications issued by the State Government, the petitioner societies made applications seeking N.O.C. for establishment of the colleges and that they were granted N.O.C. and in pursuance of the same the petitioners were also granted recognitions by the N.C.T.E. which are valid for the academic year 2004-05 and such orders granting recognition were communicated to the State Government. In the circumstances, as rightly contended by the learned Counsel for the petitioners, it is not open to the Government to raise any objection at the time of allotment of students on the ground that there is no need for the present colleges to be established. Hence, the objection raised in the impugned order that there is no need cannot be sustained. The plea of the respondents that the existing intake of the colleges is more than the demand from the student community also appears to be vague and in the absence of any material to substantiate the same, the impugned order cannot be justified on that ground.

The further objection raised in the impugned order that the letters of recognition issued to the petitioner institutions by the N.C.T.E. have not been published in the Official Gazette as required under Section 14(4) of the N.C.T.E. Act also on the face of it appears to be untenable. As a matter of fact, in the additional counter-affidavit, it has been clearly admitted by the respondents that they have not received such Official Gazettes insofar as the 303 colleges included in the list annexed to G.O.Ms.No.48, dated 3-3-2005. Hence, the failure of the petitioners to produce the Official Gazettes cannot be taken as a valid ground for not including the petitioner colleges in the list of Approved Colleges.

However, the fact remains that the petitioner institutions have not yet been granted affiliation from the concerned Universities. The petitioners do not dispute the same, but state that their applications for grant of affiliations are under process and since under sub-Section (6) of Section14 of the NCTE Act, the grant of affiliation is automatic, there is absolutely no justifiable reason for not including their colleges in the list of Approved Colleges on the basis of the recognitions already granted by the N.C.T.E. It is also contended that many of the colleges included in the list of approved colleges do not have valid affiliations. However, the material placed by the learned Government Pleader before this Court show that except three colleges all the other colleges, as per the letters issued by the respective Universities are having valid affiliations. The copies of the letter addressed by the Registrar of Andhra University, dated 14-03-2005, the letter addressed by the Dean of Sri Krishna Devaraya University, Ananthapur, dated 15-03-2005, the letter from the Registrar of Kakatiya University Warangal, dated 18-03-2005, the letter of Sri Venkateswara University, Tirupati, dated 15-03-2005, the letter from Acharya Nagarjuna University, dated 18-03-2005 and the letter of Osmania University, Hyderabad, dated 19-03-2005 have been placed before this Court by the learned Government Pleader. The said letters were addressed to the A.P. State Council of Higher Education informing that the list of Colleges of Education furnished by them are affiliated to the respective Universities for the academic year 2004-05. From the said letters, it is clear that all the said colleges are existing colleges and renewal of affiliations have been granted for the academic year 2004-05.

The learned Counsel for the petitioners points out that the letter of Kakatiya

University, Warangal, dated 18-03-2005 and the letter of Sri Venkateswara University, Tirupati, dated 15-03-2005 show that the grant of extension of affiliation is still pending. Therefore, the learned Counsel contends that the respondents ought to have allotted the students to the petitioner colleges whose applications for grant of affiliations are also under process. I do not find any merit in the said contention since all the institutions included in the list of approved colleges are the existing colleges, whereas the petitioner institutions are the new colleges which are yet to be granted affiliations by the concerned Universities. Hence, they cannot be placed on par with the other colleges for which the affiliation was granted for the previous academic years and the renewal of affiliation is under process, particularly when the concerned Universities have informed that the renewal is being granted. As a matter of fact, the letter of the Registrar of Kakatiya University, dated 18-03-2005 shows that so far as three colleges whose names are specified thereunder are concerned, the request for affiliation was still under process and the same was duly informed to the A.P. State Council of Higher Education. It is not in dispute that the said three colleges are not included in the list of approved colleges under G.O.Ms.No.48, dated 3-3-2005.

In the circumstances and since admittedly the petitioner colleges have not been granted affiliations by the concerned Universities so far, it cannot be held that they are entitled for allotment of the students for admission. Even assuming that under sub-Section (6) of Section 14 of the NCTE Act the affiliation is automatic and the Universities are bound to grant affiliations on the basis of the recognitions granted by the N.C.T.E. without raising any objection, may be it is for the petitioners to institute appropriate proceedings assailing the inaction on the part of the Universities in granting affiliation in their favour, but in the absence of such affiliation, I am unable to find fault with the respondents in refusing to allot the students for admission into the petitioner institutions for the academic year 2004-05.

The learned Counsel for the petitioners raised yet another contention stating that as a matter of practice the respondents have been allotting the students to the new colleges on the basis of the recognition granted by the N.C.T.E. even before the actual affiliation is granted by the concerned Universities. He submits that such a practice was followed while preparing the list of the Approved Colleges during the

academic years 2001-02, 2002-03 and also 2003-04 and the respondents ought to have extended the same benefit to the petitioners while preparing the list of the Approved Colleges under G.O.Ms.No.48, dated 3-3-2005.

Even assuming that during the previous academic years, some of the colleges were allotted students even in the absence of affiliation by the concerned Universities, I am of the view that the same cannot be taken as a precedent to direct the respondents to extend the same benefit to the petitioners since the law is well settled that the judicial process cannot be taken aid to perpetuate illegalities. The learned Government Pleader has categorically stated that for the academic year 2004-05, no college without affiliation is being allotted the students for admission and the material placed before this Court established the same. In the circumstances, the respondents cannot be compelled to repeat the illegality / irregularity that was committed during the previous academic years.

For the aforesaid reasons, I am unable to hold that the impugned G.O.Rt.No.216, dated 24-03-2005 is arbitrary or illegal and therefore the relief as prayed for cannot be granted.

However, the learned Counsel for the petitioners points out that the 1st petitioner in W.P.No.7006 of 2005 namely Greater Visakha Medicare Educational Society, who was granted recognition for establishing a College of Education at Nellore in the name of D.D.R. B.Ed. College has been granted affiliation by Sri Venkateswara University, Tirupati vide letter of the Registrar, dated 15-03-2005. A perusal of the said letter shows that pending notification by the Executive Council, Academic Senate, Temporary Conditional Affiliation has been granted to the said College with an intake of 100 seats for the academic year 2004-05 subject to fulfillment of conditions stipulated by the N.C.T.E. as well as the deficiencies and conditions pointed out by the University Inspection Commission which was specified in the said letter. In the said letter, it was also stated that the college has to send the compliance report on fulfillment of the deficiencies specified thereunder within three months and in default the temporary conditional affiliation will be withdrawn and the Convenor will be requested to reallocate the candidates to other colleges. A copy of

the said letter was marked to the Secretary to Government, Department of Education, the Commissioner & Director of School Education, Controller of Examinations among others.

In the circumstances, there shall be a direction to the respondents to take into consideration the said letter of Sri Venkateswara University, Tirupati, dated 15-3-2005 and to consider the case of the 1st petitioner in W.P.No.7006 of 2005 for allotment of the students for the academic year 2004-05. In case there is any objection for allotting the students, the reasons shall be communicated to the said petitioner forthwith.

It is made clear that this Court has not expressed any opinion as to the allegation made by the petitioners that the impugned order was passed in deliberate disobedience to the interim orders granted in the earlier batch of writ petitions. It is left open to the petitioners to pursue the appropriate remedy, in which event the said contention will be considered and decided independently in accordance with law.

Subject to the above observations and directions in respect of the 1st petitioner in W.P.No.7006 of 2005, all the Writ Petitions shall stand dismissed. No costs.

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April, 2005.

gbs

Note:- Office is directed to place a copy of this
common order in W.P. Nos. 6949, 6950, 6951,
7077, 7125, 7132, & 7388 of 2005
after signature of the Hon'ble Judge.
(B/O)

gbs

To:

1. The Principal Secretary to Government, School Education (Training A-1) Department, Government of A.P., Secretariat, Hyderabad.
2. The Convenor, EDCET 2004-05, O/o. Director of School Education, A.P., Hyderabad.
3. The Commissioner & Director of School Education, A.P., Hyderabad.
4. The A.P. State Council for Higher Education, Andhra Pradesh, Hyderabad.
5. The National Council for Teacher Education, 1st floor, CSD Building, HMT Post, Bangalore.
6. The Registrar, Osmania University, Hyderabad.
7. The Registrar, Kakatiya University, Warangal.
8. The Registrar, Andhra University, Visakhapatnam.
9. The Registrar, Sri Krishnadevaraya University, Anantapur.
10. The Registrar, Nagarjuna University, Guntur.
11. The Principal Secretary, Minority Welfare Department, Government of Andhra Padesh, Saifabad, Secretariat, Hyderabad.
12. Two CCs to G.P. for School Education, High Court of AP Bldgs, Hyderabad (OUT).
13. Two CD copies.